

## Office Action Summary

**Application No.**

09/828,165

**Applicant(s)**

OHGO, JUNICHI

**Examiner**

Dominic D. Saltarelli

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed August 6, 2007 have been fully considered but they are not persuasive.

Applicant argues that the data entered indicating an operation desired by a user must be entered by the device when it is being used in a telephone capacity (applicant's remarks, pages 2-4).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., entering data using a telephone which is in turn being used in a specifically telephonic capacity in order to send the data to the provider) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claimed invention goes no further than to require the data is entered "using a telephone".

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 6, 10, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau et al. (6,118,472, of record) [Dureau] in view of Gerszberg et al. (US 2002/0012353 A1, of record).

Regarding claims 1 and 6, Dureau discloses a method and system for using the Internet comprising:

Using a telephone line to send data indicating an operation desired by a user and sending the data to a provider's server (col. 4, lines 29-40, wherein the provider's server is service provider 13 shown in fig. 1);

Said provider's server (13) receives the data from said telephone line to carry out the operation desired by the user based on the data (via port 68, col. 4, lines 29-40), said provider's server generates display data showing the result of carrying out the operation (the display data is retrieved Internet data, col. 4, lines 41-50) and sends the display data to a broadcasting station (broadcasting station is broadcast center 12 shown in fig. 1, which receives the Internet data for broadcast, col. 3, lines 51-60 and col. 4, lines 41-50);

Said broadcasting station (12) which receives the display data from said provider's server (via port 74 of gateway 70 in fig. 1, col. 4, lines 41-45) and radio-transmits the display data (via satellite transmitter 30 in fig. 1);

A television set (fig. 1, TV 50) with radio-receives the display data from said broadcasting station (13), said television set displays the result of carrying out the operation based on the display data (col. 4, lines 48-50); and

wherein the data is sent to the provider's server via a telephone station (col. 4, lines 29-40, wherein the return channel 57 comprises telephone lines).

Dureau fails to disclose entering the data using a telephone.

In an analogous art, Gerszberg teaches incorporating telephone functionality into a remote control (see fig. 17), for the benefit of enhancing a user's remote control to include telephone functionality (paragraph 0086).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system of Dureau to incorporate telephone functionality into the remote control 55, as taught by Gerszberg, for the benefit of enhancing said remote control to include telephone functionality, wherein when remote control 55 disclosed by Dureau is a telephone, request data entered using said remote is entered using a telephone.

Regarding claims 5 and 10, Dureau and Gerszberg disclose the method and system of claims 1 and 6, wherein the display data are radio-transmitted/received via a broadcasting satellite (Dureau, fig. 1, satellite 35).

Regarding claims 11 and 13, Dureau and Gerszberg disclose the method and system of claims 1 and 6, wherein the telephone sends the data to a telephone station (Dureau, service provider 13 is connected to return channel 57, which is a telephone line, col. 4, lines 29-40, thus is a telephone station), the telephone station connects the telephone to the Internet (Dureau, fig. 1, Internet

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65), and wherein the provider's server (13) accesses the internet to retrieve the data (Dureau, col. 4, lines 41-50).

4. Claims 2, 3, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau and Gerszberg as applied to claims 1 and 6 above, and further in view of Shimomura et al. (6,526,580, of record) [Shimomura].

Regarding claims 2 and 7, Dureau and Gerszberg disclose the method and system of claim 1 and 6, but fail to disclose the data is entered and sent by the user using an Internet mail function of said telephone.

In an analogous art, Shimomura teaches using an Internet mail function to send data from a wireless device (SMS messages are mail messages being sent to an Internet server for the purpose of interacting with the Internet, col. 14, lines 40-56), for the benefit of providing an Internet back channel that is incorporated as part of an existing cellular telephone infrastructure.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system of Dureau and Gerszberg to include using an Internet mail function to send data from the wireless device, as taught by Shimomura, for the benefit of providing an Internet back channel that is incorporated as part of the existing cellular telephone infrastructure.

Regarding claims 3 and 8, Dureau, Gerszberg, and Shimomura disclose the method and system of claims 2 and 7, wherein said telephone is a mobile

phone (as shown in fig. 17 of Gerzberg, the phone/remote device is a mobile device).

5. Claims 4, 9, 12, and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau and Gerszberg as applied to claims 1 and 6 above, and further in view of Majeti et al. (5,534,913, of record) [Majeti].

Regarding claims 4 and 9, Dureau and Gerszberg disclose the method and system of claims 1 and 6, but fail to disclose said provider's server adds an identification code to the display data, and said television set selects the display data based on the identification code.

In an analogous art, Majeti teaches addressing data to particular users (col. 4, lines 26-45) wherein the data is broadcast to many users over a common broadcast channel (col. 4, lines 7-25), thus the receiver equipment must select received data for display based on the address information included in the broadcast, for the benefit of selectively targeting data to different users over a broadcast distribution network.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Dureau and Gerszberg to include adding an identification code to the display data, and selecting the display data based on the identification code, as taught by Majeti, for the benefit of selectively targeting data to different users for exclusive reception over a broadcast distribution network.

Regarding claims 12 and 14, Dureau and Gerszberg disclose the method and system of claims 1 and 6, but fail to disclose the telephone comprises a first identification code and the television set comprises a second identification code, the first identification code and the second identification code being the same, and wherein the first identification code is registered with the provider's server.

In an analogous ad, Majeti teaches addressing data to particular users (col. 4, lines 26-45) wherein the data is broadcast to many users over a common broadcast channel (col. 4, lines 7-25), for the benefit of selectively targeting data to different users over a broadcast distribution network.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system of Dureau and Gerszberg to include addressing data to particular users, as taught by Majeti, for the benefit of selectively targeting data to many different users simultaneously over a broadcast distribution network. The addressing information is the identification code associated with the telephone and the television set, as the telephone includes the code when making a request to identify the requester and the television set includes the code in order to filter out that information addressed to the user. The address information is registered with the server, as it is the server which is responsible for receiving and fulfilling requests from users.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY PATENT EXAMINER